

SEATTLE CITY ATTORNEY

MARK H. SIDRAN

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November 17, 2000

VIA FEDERAL EXPRESS

David P. Boergers
Secretary
Federal Energy Regulatory Commission
888 First Street, N.E.
Washington, DC 20426

Re: Avista Corporation, et al., Docket No. RT01-35-000

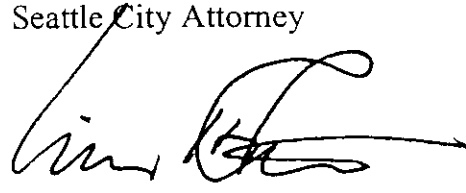
Dear Mr. Boergers:

Enclosed please find an original and fourteen (14) copies of "Motion to Intervene of the City of Seattle". Also enclosed is one cover sheet to be time-stamped and returned in the envelope provided.

Very truly yours,

Mark H. Sidran
Seattle City Attorney

By:



WILLIAM H. PATTON
Director, Utilities Section

WHP:hh

Enclosures

cc: Service List

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**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

| | | |
|------------------------------------|---|------------------------|
| Avista Corporation, |) | |
| |) | |
| Bonneville Power Administration, |) | Docket No. RT01-35-000 |
| |) | |
| Idaho Power Company, |) | |
| |) | |
| The Montana Power Company, |) | |
| |) | |
| Nevada Power Company, |) | |
| |) | |
| PacifiCorp, |) | |
| |) | |
| Portland General Electric Company, |) | |
| |) | |
| Puget Sound Energy, Inc., |) | |
| |) | |
| Sierra Pacific Power Company |) | |

**MOTION TO INTERVENE
OF
THE CITY OF SEATTLE**

I. Motion to Intervene

Pursuant to Rule 214 of the Commission's Rules of Practice (18 C.F.R. § 385.214), the City of Seattle moves to intervene in the above proceeding.

Seattle moves to intervene in response to the Commission's October 24, 2000 Notice of Filing regarding the parties' "Supplemental Compliance Filing and Request for Declaratory Order Pursuant to Order 2000," filed with the Commission on October 23,

2000. Seattle requests that intervention be granted not only with respect to this Supplemental Compliance Filing, but for all subsequent proceedings under this "RTO West" Docket.

II. Service Recipients

All communications, correspondence, documents, or other materials concerning this motion to intervene and subsequent filings should be addressed to the following:

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III. Seattle's Interest in This Proceeding

The City of Seattle owns and operates its own electric utility, Seattle City Light, serving all of Seattle and all or portions of adjacent cities and unincorporated King County in the State of Washington. Seattle City Light serves over 380,000 customers,

and by that measure is the seventh largest publicly owned electric utility in the United States. The City of Seattle has been issued major hydroelectric project licenses by the Commission, including the Skagit Project (FERC Project No. 553) and the Boundary Project (FERC Project No. 2144), which are used to serve Seattle's native load. In addition to its own resources, Seattle purchases power under long-term purchase contracts from numerous generating projects in the Pacific Northwest and is a large public preference purchaser of power from the Bonneville Power Administration.

Seattle owns the transmission lines that supply power directly from the Skagit Project, but otherwise is heavily transmission-dependent. The bulk of transmission services supplying power to Seattle is provided by the Bonneville Power Administration. Seattle also relies on interconnections with Puget Sound Energy to provide interconnected transmission services from Seattle's generating projects on municipal water supply projects connected to the Puget Sound Energy service area.

Not only is Seattle heavily dependent on the region's transmission system, to receive power to serve native load, Seattle operates its own NERC/WSCC certified control area that can be significantly affected by other transmission traffic on the regional transmission system. Accordingly, Seattle coordinates its external resources with the Bonneville Power Administration control area that surrounds Seattle and with the Northwest Security Coordinator.

As a consequence of its geographic position and dependence on the regional transmission system in the Pacific Northwest, Seattle has an abiding and fundamental interest in the future of transmission governance in this region.

IV. Seattle's Concerns with RTO West's Compliance Filing

In response to the Commission's Proposed Order 2000, Seattle City Light filed extensive comments in Docket RM99-2-000. Seattle reiterates those comments in response to this RTO filing and adds the following:

A. Seattle's Participation in the Preceding RTO West Discussions

While retaining all of those concerns expressed to the Commission when Order 2000 was issued, Seattle representatives participated extensively in the regional discussions organized by the KEMA consultants hired by the RTO West group of investor-owned utilities in anticipation of this filing. Seattle's participation in those discussions, however, should not be taken as assent or agreement with any part of the filing or the creation of an "RTO West" as proposed. Indeed, at the end of the process, the filing utilities curtailed those discussions and kept their own counsel regarding the documents that were actually filed with the Commission.

The "RTO West" filing represents much hard work on the part of the filing utilities. Yet, despite the nearly impenetrable nature of some of the stack of documents filed with the Commission, the proposal is also fundamentally incomplete. For this reason alone, in addition to the reasons stated below, the Commission should not initiate a formal process to either approve or disapprove the filing. More issues must be addressed and resolved before the Commission can reach a verdict on the role and structure of a Northwest RTO.

B. The Unique Nature of the Pacific Northwest

The Pacific Northwest utility and transmission system has a number of unique characteristics that must be given careful consideration in any assessment of the role, risks, and benefits of an RTO. Half the generation in the Northwest and 85 percent of the high voltage transmission is operated by the Bonneville Power Administration. About half the retail load in the Northwest is served by investor-owned utilities and half by publicly owned utilities. There is also a diversity of approach to retail competition in the four Pacific Northwest states.

The Northwest hydro system also adds unique characteristics. Most importantly, the region's extensive hydro base allows Northwest retail electricity rates to be among the lowest in the nation. Unlike many systems that are built to match load, our transmission system has largely been sized and located to match resource output.

In addition, Pacific Northwest utilities have a long history of joint ownership and planning of generation and transmission. There is also a long history of reciprocal transmission access. Commission Order 888 was not revolutionary in this region.

Finally, the output of resources is often driven by non-market factors, including flood control, irrigation, navigation, and protection of endangered species. These factors create substantial challenges in designing a Regional Transmission Organization that balances fairness, efficiency, reliability, and statutory responsibilities.

C. Specific Issues

1. Failure to Protect Native Loads

The filing utilities should clearly establish how the interests of bundled retail electric customers will be preserved. The Commission has approved native load reservations in the context of Orders 888 and 889. The Transmission Operating Agreement (TOA) proposed by the filing utilities does not currently identify whether the interests of those customers would have precedence over wholesale energy transactions. Seattle's primary concern with this proposal is with reciprocity provisions that could ultimately force our bundled retail customers to compete for access to even our own transmission lines with wholesale power producers. The "RTO West" proposal fails to unmistakably exclude transmission lines that are internal to Seattle's system serving its own native load.

Of particular concern for Seattle is the fact that we operate major hydroelectric facilities licensed by the Commission, which have important fish protection, environmental and cultural preservation license provisions that we take extremely seriously. The "RTO West" proposal threatens to subsume load control operation of projects, such as the Skagit (FERC Project No. 553) into its domain and thereby potentially undermine years of investment in environmental, cultural and fish protection.

2. Failure to Address the Effect of Existing Long-Term Transmission Contracts and Public Power Access Rights

The proposal for the “RTO West” and the “TOA” proposed to be associated with it inherently assumes that all existing long-term transmission contracts will be subsumed within it. Yet there are many existing and newly executed bilateral, long-term transmission contracts between certain of the filing agencies and non-filing utilities, such as Seattle, that may never become members of an RTO. Such contracts, by law, may not be abrogated. An RTO cannot assume that such bilateral contracts will be automatically folded into the unilateral control of an RTO. The specter of penalty rates employed to force conformity and adherence to the dictates of an RTO must neither be countenanced nor tolerated.

In addition, the proposal fails to take account of vested public preference rights. Federal statutes relating to the Bonneville Power Administration grant vested rights of access to power by public customers of Bonneville, including Seattle. The proposed TOA and organization of “RTO West” fail to recognize or account for those obligations to serve public entities in this region. The proposal threatens to put public power utilities, including full requirements customers that are totally dependent on the Bonneville system, in a position where their power needs can be trammled by larger throughput bulk sale transactions which can be expected to claim for themselves the “unencumbered transmission capability” the “RTO West” proponents perceive to exist.

3. Failure to Protect the Needs of Native Load Utilities from the Providers of Bulk Market Sales

The proposed “RTO West” fails to account for the market-driven cost shifts by the efforts of surplus power marketers, such as British Columbia’s Powerex, to occupy and often overload the existing transmission system for market sale throughput to California and the Southwest. Inevitably, the market-driven loading on the north-south transmission pathway imposes an uncompensated demand and reliability strain on intervening distribution systems, such as Seattle’s, that stand in the physical path of those marketing transactions. Moreover, the urgent demands of bulk sales marketers inevitably press on intervening local utilities to alter or even prevent required maintenance and construction of the local distribution system to accommodate their pass-through sales. An “RTO West” may eventually be able to be a planning agency for the expansion of the existing Pacific Northwest transmission system and likewise eventually provide for its construction, but it has yet to address which utilities, whether members of the RTO or not, will pay for it and how the native load utilities will be protected.

4. Failure to Confront the California Experience

In the aftermath of this summer's problems in California, the filing utilities must clearly demonstrate how an “RTO West” will avoid the daunting problems we have seen in the California ISO. The filing utilities state that “RTO West” will rely on “market mechanisms” to supply ancillary services. This is an extremely incomplete and unacceptable answer. Given the experience in the California ancillary service market, it would be far more prudent for the Commission to require a wide range of possible

approaches, including self-provision of ancillary services, to limit the potential for abuse of market power. Insufficient time has passed to determine whether anyone has effective answers to the market disruptions so painfully witnessed just this year in California.

5. Failure to Demonstrate Consumer Cost Benefit

Filing utilities proposing a Regional Transmission Organization should be able to demonstrate with some reasonable precision that an “RTO West” will lower consumer costs by improving the efficiency of the existing Northwest wholesale electricity market, especially as measured against the obvious increase in costs. Studies done in connection with this filing, and in conjunction with the “Indego” proposal before, have failed to establish that either transmission pricing or access are barriers to least-cost dispatch. We understand that the benefits of an RTO may be much harder to calculate than costs, but the Commission should not issue a declaratory order in this docket without substantial evidence that expected benefits will clearly and substantially outweigh the very predictable increased costs.

6. Failure to Demonstrate Efficiency Benefits

The filing utilities should also be required to demonstrate that “RTO West” would improve the efficiency of new transmission and generation siting. This is perhaps a harder case, but neither the Commission nor the filing utilities should assume that we are unable to plan efficient new additions to generation or transmission in the absence of an “RTO West.” Stated differently, it should be shown that the barriers to efficient siting of new generation and transmission are truly overcome by the existence of an “RTO West.”

7. Failure to Put First Things First

The Commission should halt all steps of the filing utilities to transfer assets to TransConnect (Docket RT01-15-000) at least until the many unresolved issues in the “RTO-West” docket are clarified and decided. Seattle is submitting a companion motion to intervene in that proceeding as well. It is putting the cart before the horse to approve such a massive asset transfer before an “RTO West” is even authorized. Once transferred it will be virtually impossible to reconstitute the original structure and ownership together with the contractual transmission service relationships that will be disrupted by premature ownership changes.

8. Failure to Consider the Superiority of Public Ownership

The filing utilities posit a non-profit corporate structure as being the superior means to provide an RTO with independence. Unconsidered and unaddressed, however, are the fundamental advantages of a publicly owned regional transmission organization whose charter mission would be to provide a transmission highway to benefit all users, with accountability to all users, whether they be urban or rural, investor-owned or publicly owned utilities. Seattle knows of no privately owned transmission agency, whether profit or “non-profit,” that has proven successful in providing unbiased transmission services. In contrast, the Pacific Northwest has long been the beneficiary of a publicly owned transmission agency, the Bonneville Power Administration, that at least in the past has provided wide-ranging open access transmission throughout this region. A public corporation or agency that is accountable to all its customers throughout the region

and which is not driven by profit or staff benefit considerations is a far superior vehicle to provide a regional highway grid for electric transmission.

V. Conclusion

Seattle is a heavily transmission-dependent publicly owned utility that has a vital interest in the identity and functioning of any Regional Transmission Organization that purports to assume wide-ranging transmission authority in the Pacific Northwest.

Seattle has already expressed general concerns with the development of any RTO in the Pacific Northwest, and reiterates those concerns in addition to specific issues set forth above related to this recently minted “RTO West” proposal. A fundamental concern is that the filing utilities are seeking a declaratory order from the Commission, despite the incomplete nature of the proposal.

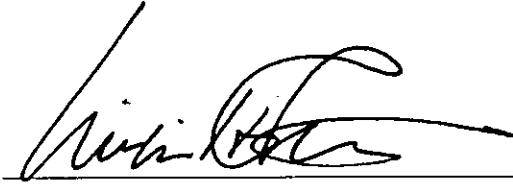
VI. Request for Relief

Accordingly, Seattle requests the following of the Commission:

1. Grant Seattle’s motion to intervene in this proceeding.
2. Refrain from considering or issuing any declaratory orders in this proceeding, until such time as the proposals are complete.
3. Refrain from invoking an administrative process in response to any protests that the Commission receives in order to allow more time for consultation and development of a more acceptable package.
4. Require the filing parties to continue with an open public process in the further development of the “RTO West” proposal, including the ability to

review final drafts of the documents before they are submitted to the
Commission.

Respectfully Submitted this 17th day of November, 2000,

A handwritten signature in black ink, appearing to read 'William H. Patton', is written over a horizontal line.

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CERTIFICATE OF SERVICE

I hereby certify that I have this day caused a copy of the foregoing document to be served upon each person designated on the official service list compiled by the Federal Energy Regulatory Commission in this proceeding in accordance with Rule 2010 of the Rules of Practice and Procedure.

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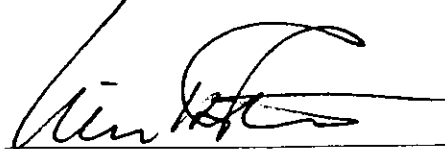
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DATED at Seattle, Washington, this 17th day of November, 2000.



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